

**Supplemental Letter of Findings: 01-20181925
Indiana Individual Income Tax
For The Tax Year 2016**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Supplemental Letter of Findings.

HOLDING

Individual was responsible for additional Indiana income tax for the 2016 tax year because Individual was not able to substantiate a deduction Individual claimed in his 2016 return.

ISSUE

I. Indiana Individual Income Tax - Deductions.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; IC § 6-8.1-5-4; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the Department's assessment of individual income tax for 2016.

Statement of Facts

Taxpayer is an Indiana resident who timely filed his 2016 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) and received a tax refund in 2017.

In 2018, the Indiana Department of Revenue ("Department") examined Taxpayer's 2016 filing and determined that Taxpayer overstated a \$19,000 deduction in his 2016 return, IT-40 Form. The Department thus assessed Taxpayer additional income tax and interest.

Taxpayer timely protested the assessment and a hearing was scheduled. Because Taxpayer failed to attend the hearing, the Department administratively closed Taxpayer's protest. Taxpayer subsequently requested a rehearing and submitted a DVD which contained additional supporting documents. A rehearing was held and this Supplemental Letter of Findings ensues and addresses Taxpayer's protest of the proposed assessment. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Deductions.

Discussion

The Department determined that Taxpayer overstated a \$19,000 deduction when he reported in his 2016 return, IT-40 Form. As a result, the Department disallowed the deduction, which resulted in additional income tax and interest. Taxpayer disagreed, arguing that he was not responsible for the additional tax because he had a business that incurred losses in 2016.

The issue thus is whether Taxpayer demonstrated that he was entitled to claim the \$19,000 deduction when Taxpayer filed his 2016 Indiana return.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax

year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting her challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). IC § 6-8.1-5-4(a) further provides:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. **The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks. (Emphasis added).**

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To efficiently and effectively compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial examination, the Department found that Taxpayer, in his Schedule 2, IT-40 Form, claimed a \$19,000 deduction with no verifiable documents. Thus, the Department disallowed Taxpayer's \$19,000 deduction to comport with the Department's record.

Taxpayer, to the contrary, asserted that he was entitled to the \$19,000 deduction because the \$19,000 was expenses (or losses) attributable to his business. Taxpayer stated that, in 2012, he started a business and had since incurred losses, which was the deduction at issue. To support his protest, Taxpayer offered additional documentation, including bank statements, various receipts, and a 2016/2017 "Business Entity Report" ("Report"), which was filed with the Indiana Secretary of State in September 2016.

Upon review, however, Taxpayer's reliance on his supporting documentation is misplaced. In particular, Taxpayer's supporting documents showed that the expenses were dated 2017 and thus presumably incurred in 2017. However, 2017 is not the tax year at issue. Specifically, in this instance, the Department disallowed the deduction which was claimed in Taxpayer's 2016 return. Because Taxpayer stated that his business utilizes "cash method" accounting, the losses claimed in Taxpayer's 2016 return should have incurred in 2016, not 2017.

In addition, Taxpayer's business - a limited liability company - was created in 2012. Taxpayer was required, but failed, to properly maintain the business records, income or otherwise, separately from Taxpayer's personal expenses. Without the verifiable business records, the \$19,000 losses could not be substantiated. Taxpayer's supporting documentation further demonstrated that various expenses in 2017 were personal in nature and not related to business.

In short, given the totality of the circumstances, in the absence of other supporting documents, Taxpayer failed to meet his burden to demonstrate that he was entitled to the \$19,000 deduction.

FINDING

Taxpayer's protest is respectfully denied.

October 17, 2018

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